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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|---------------------|------------------|
| 10/711,887 | 10/12/2004 | Tracie Marie St. Pierre | SP01 | 5886 |
| 27797 | 7590 | 01/11/2005 | EXAMINER | |
| RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072 | | | NGUYEN, SON T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/711,887 | Applicant(s) ST. PIERRE, TRACIE MARIE | |
| | Examiner Son T. Nguyen | Art Unit 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,3-8,10,14,16-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Piglia et al. (US 5664524).

For claims 1 & 14, Piglia et al. teach a module that is capable of dispensing a treat comprising a hollow treat holder 12 or 14 having at least one aperture 22 through which a treat can be inserted; and at least one end 20,46,50,44,42,34,48 that can be removably attached to an end of another of said modules. In addition, the module can be a toy for a pet, wherein a multiplicity of modules removably attached to each other as shown in fig. 1.

For claim 3, Piglia et al. teach wherein the treat holder has two of the apertures 22.

For claim 4, Piglia et al. teach wherein the end is circular in cross-section.

For claim 5, Piglia et al. teach wherein the treat holder has two ends (see figs. 1,2,6,7,11).

For claim 6, Piglia et al. teach wherein one of the two ends is a male end 42,44,46 and the other of the two ends is a female end 34 and the male end locks into the female end.

For claim 7, Piglia et al. teach wherein a treat may be inserted, if one wishes, through the apertures 22.

For claim 8, Piglia et al. teach a recessed treat barrier 13,24,78 at each end (see fig. 1 for location of the barrier).

For claim 10, Piglia et al. teach wherein the hollow holder has a L-shaped.

For claims 16 & 18, Piglia et al. teach a module that is capable of dispensing a treat to a chewing animal comprising (A) a hollow treat holder 12,14 having at least one aperture 22 through which a treat may be inserted by a person or removed by a chewing animal, and (B) two end pieces 20,46,50,44,42,34,48 fixed to said hollow treat holder, where said end pieces can be removably attached to an end piece of another of said modules and through which a treat can be inserted into said hollow treat holder by a person and can be removed from said hollow treat holder by a chewing animal. In addition, the module can be a toy for a pet, wherein a multiplicity of modules removably attached to each other as shown in fig. 1.

For claim 17, Piglia et al. teach wherein a barrier 13,78,24 is in between said end pieces and said hollow treat holder.

3. **Claims 1,3-10,14,15** are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US 5819690).

For claim 1, Brown teaches a module for dispensing a treat comprising a hollow treat holder 10 having at least one aperture 24 through which a treat can be inserted; and at least one end 14,16 that can be removably attached to an end of another of said modules (see figs. 3-5).

For claim 3, Brown teaches wherein the treat holder has two of the apertures 24.

For claim 4, Brown teaches wherein the end is circular in cross-section.

For claim 5, Brown teaches wherein the treat holder has two ends (see figs. 3-5)

For claim 6, Brown teaches wherein one of the two ends is a male end 14 and the other of the two ends is a female end 16 and the male end locks into the female end (see fig. 5).

For claim 7, Brown teaches wherein a treat may be inserted through the apertures 24.

For claim 8, Brown teaches a recessed treat barrier 20 at each end.

For claim 9, Brown teaches the barrier has inwardly-extending prongs 22.

For claim 10, Brown teaches wherein the hollow holder has spheroidal shape.

For claim 14, Brown teaches a treat-dispensing toy comprising a multiplicity of modules 12 (each halves) removably attached to each other.

For claim 15, Brown teaches a method of entertaining and feeding a chewing animal comprising inserting a treat (dog bone in phantom) into a module 12 according to Claim 1 and permitting said chewing animal to chew on said module.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2,11,13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piglia et al. (as above).

For claim 2, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the aperture of Piglia et al. star shaped, depending on the user's preference to do so to make the device more pleasing in appearance.

For claim 11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the holder of Piglia et al. out of a rubbery material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one end of the holder of Piglia et al. be about 1 to about 5 inches in diameter, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

6. **Claims 2,11-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (as above).

For claim 2, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the aperture of Brown star shaped, depending on the user's preference to do so to make the device more pleasing in appearance.

For claim 11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the holder of Brown out of a rubbery material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a dog biscuit in the holder of Brown, depending on what treat the user's prefer to have his/her pet to eat.

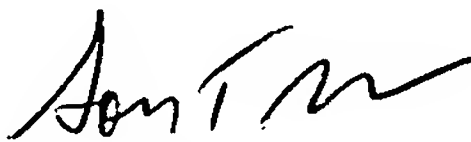
For claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one end of the holder of Brown be about 1 to about 5 inches in diameter, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

Allowable Subject Matter

7. **Claims 19 & 20** are allowed.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Son T. Nguyen
Primary Examiner
Art Unit 3643

stn